

CLIFTON BUDD & DeMARIA, LLP
Attorneys for Defendants
The Empire State Building
350 Fifth Avenue, 61st Floor
New York, NY 10118
212-687-7410

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAIME GUTIERREZ and RAMON GUTIERREZ,	:
	:
Plaintiff,	:
	:
-against-	:
	:
TRYAX REALTY MANAGEMENT, INC., 1027	:
WALLCO L.L.C., MICHAEL SCHMELZER,	:
MATTHEW SCHMELZER, MIGUEL LEON and	:
CESAR MALDONADO,	:
	:
Defendants.	:
-----X	

PLEASE TAKE NOTICE that pursuant to F.R.Civ.P. 56, defendants, by and through their counsel, cross-move this Court for an Order granting partial summary judgment to defendants, and awarding such other and further relief as the Court deems proper and just. The grounds for the motion are that, as a matter of law, plaintiffs’ unauthorized breaks are not “work” within the meaning of the Fair Labor Standards Act or New York Labor Law.

The following true copies are attached as exhibits in support of the motion:

Exhibit:	Description:
A	Amended Complaint
B	Miguel Leon Declaration
C	Cesar Maldonado Declaration
D	Edgardo Heredia Declaration

Exhibit:

Description:

E	Excerpted Log of Video Footage
F	Excerpted Images of Video Footage
G	Excerpted Images of Video Footage
H	Excerpted Deposition Transcript, Jaime Gutierrez
I	Excerpted Deposition, Transcript, Ramon Gutierrez
J	Pay Rate Notices, Jaime Gutierrez
K	Pay Rate Notices, Ramon Gutierrez
L	Pay Stubs, Jaime Gutierrez
M	Pay Stubs, Ramon Gutierrez
N	Joint 56.1 Statement

A Local Rule 56.1 Statement and Memorandum of Law are submitted herewith.

Dated: May 24, 2019
New York, New York

Respectfully submitted,
CLIFTON BUDD & DeMARIA, LLP
Attorneys for Defendants



By: _____

Arthur J. Robb
The Empire State Building
350 Fifth Avenue, 61st Floor
New York, NY 10118
212-687-7410